

Executive Summary – Enforcement Matter – Case No. 51438

City of Lueders

RN101391340

Docket No. 2015-1591-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Lueders PWS, 201 East Main Street, Lueders, Jones County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 5, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$588

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$588

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 28, 2015 through October 9, 2015

Date(s) of NOE(s): October 9, 2015

Executive Summary – Enforcement Matter – Case No. 51438

City of Lueders

RN101391340

Docket No. 2015-1591-PWS-E

Violation Information

1. Failed to comply with the acute maximum contaminant level for coliform bacteria [30 TEX. ADMIN. CODE § 290.109(f)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
2. Failed to collect triennial lead and copper samples at the required ten sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director [30 TEX. ADMIN. CODE § 290.117(c)(2)(C) and (i)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent returned to compliance with applicable lead and copper monitoring requirements on October 21, 2015.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, begin complying with applicable coliform monitoring requirements by providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting; and
- b. Within 225 days, submit written certification to demonstrate compliance with a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ryan Byer, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2571; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Benson Jarvis, Mayor, City of Lueders, P.O. Box 277, Lueders, Texas 79533-0277

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES

Assigned PCW

12-Oct-2015
22-Oct-2015

Screening

22-Oct-2015

EPA Due

31-Dec-2015

RESPONDENT/FACILITY INFORMATION

Respondent City of Lueders

Reg. Ent. Ref. No. RN101391340

Facility/Site Region 3-Abilene

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 51438

Docket No. 2015-1591-PWS-E

Media Program(s) Public Water Supply

Multi-Media

No. of Violations 2

Order Type Findings

Government/Non-Profit Yes

Enf. Coordinator Ryan Byer

EC's Team Enforcement Team 2

Admin. Penalty \$ Limit Minimum \$50

Maximum \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$450

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

34.0%

Adjustment

Subtotals 2, 3, & 7

\$153

Notes: Enhancement for two NOVs with the same/similar violations, two NOVs with dissimilar violations and one agreed order containing a denial of liability.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

-\$15

Economic Benefit

Total EB Amounts \$100

Estimated Cost of Compliance \$200

0.0%

Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6

\$0

SUM OF SUBTOTALS 1-7

Final Subtotal

\$588

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$588

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$588

DEFERRAL

0.0%

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$588

Screening Date 22-Oct-2015

Docket No. 2015-1591-PWS-E

PCW

Respondent City of Lueders

Policy Revision 4 (April 2014)

Case ID No. 51438

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101391340

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 34%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two NOVs with the same/similar violations, two NOVs with dissimilar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 34%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 34%

Screening Date 22-Oct-2015

Docket No. 2015-1591-PWS-E

PCW

Respondent City of Lueders

Policy Revision 4 (April 2014)

Case ID No. 51438

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101391340

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(f)(1)(B) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the acute maximum contaminant level ("MCL") for coliform bacteria for the month of September 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes As a result of the exceedance, persons served by the Facility have been exposed to contaminants which exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$300

One monthly event is recommended, calculated for the month of the exceedance.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$402

This violation Final Assessed Penalty (adjusted for limits) \$402

Economic Benefit Worksheet

Respondent City of Lueders
Case ID No. 51438
Reg. Ent. Reference No. RN101391340
Media Public Water Supply
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	1-Sep-2015	30-Sep-2015	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount for additional sampling and oversight to identify the source of the contamination, calculated for the month in which the exceedance occurred.

Approx. Cost of Compliance

\$100

TOTAL

\$100

Screening Date 22-Oct-2015

Docket No. 2015-1591-PWS-E

PCW

Respondent City of Lueders

Policy Revision 4 (April 2014)

Case ID No. 51438

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101391340

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.117(c)(2)(C) and (i)(1)

Violation Description

Failed to collect triennial lead and copper samples at the required ten sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director. Specifically, the Respondent collected lead and copper samples for the January 1, 2012 through December 31, 2014 monitoring period outside the required June through September sampling period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect lead and copper samples during the correct months could expose persons served by the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

1095 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$15

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance as of October 21, 2015.

Violation Subtotal \$135

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$186

This violation Final Assessed Penalty (adjusted for limits) \$186

Economic Benefit Worksheet

Respondent City of Lueders
Case ID No. 51438
Reg. Ent. Reference No. RN101391340
Media Public Water Supply
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/Construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$100	28-Sep-2015	21-Oct-2015	0.06	\$0	n/a

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future lead and copper samples are collected by the Facility's personnel during the required sample period, analyzed by the Facility's laboratories, and reported to the Executive Director, calculated from the date of the record review to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PENDING Compliance History Report for CN600652093, RN101391340, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600652093, City of Lueders

Classification: UNCLASSIFIED

Rating: -----

Regulated Entity: RN101391340, CITY OF LUEDERS

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 201 EAST MAIN STREET IN LUEDERS, JONES COUNTY, TEXAS

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1270007

WATER LICENSING LICENSE 1270007

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: October 22, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 22, 2010 to October 22, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name:

Ryan Byer **Phone:** (512) 239-2571

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 07/05/2014 ADMINORDER 2014-0340-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM MCL 1Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2013 with a RAA of .115 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)

Description: DBP1 MR 2Q2013 - This system failed to monitor and/or report disinfectant byproduct levels in its distribution system to the TCEQ for the quarterly monitoring period from 04/01/2013 to 06/30/2013 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM MCL 2Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 2nd quarter of 2013 with a RAA of 0.203 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM MCL 3Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2013 with a RAA of 0.169 mg/L.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | |
|---|---|
| 1 | Date: 11/10/2014 (1282412) CN600652093
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(C)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)
Description: LCR RD MR 3Y2014 - The system failed to monitor and/or report distribution lead
and copper levels to the TCEQ for the triennial reduced monitoring period from
01/01/2012 to 12/31/2014 within the required timeline. |
| 2 | Date: 02/19/2015 (1227095) CN600652093
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
Description: 30 TAC 290.44(h)(1)(A) Failure to install backflow prevention devices.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.119(a)(1)
Description: 30 TAC 290.119(a)(1) Failure to provide Laboratory Approval Form.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(I)
Description: 30 TAC 290.42(f)(1)(E)(ii)(I) Failure to provide adequate containment facilities for
all liquid chemical storage tanks.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(ii)
Description: 30 TAC 290.46(f)(3)(E)(ii) Failure to maintain results of chemical analysis.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(ii)
Description: 30 TAC 290.46(f)(3)(B)(ii) Failure to retain copies of boil water notices. |
| 3 | Date: 04/01/2015 (1227063) CN600652093
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)
Description: TAC 290.46 (e)(3)(A) Failure to employ an operator with a Class "D" or higher
license. |
| 4 | Date: 09/23/2015 (1282412) CN600652093
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)(B)
Description: TCR AMCL Violation 09/2015 - System received an acute maximum contaminant
level violation. |

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LUEDERS
RN101391340**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1591-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Lueders (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 201 East Main Street in Lueders, Jones County, Texas (the "Facility") that has approximately 180 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from September 28, 2015 through October 9, 2015, TCEQ staff documented that the Respondent did not comply with the acute maximum contaminant level ("MCL") for coliform bacteria for the month of September 2015.
3. During a record review conducted from September 28, 2015 through October 9, 2015, TCEQ staff documented that the Respondent did not to collect triennial lead and copper samples at the required ten sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director. Specifically, the Respondent collected lead and copper samples for the January 1, 2012 through December 31, 2014 monitoring period outside the required June through September sampling period.
4. The Respondent received notice of the violations on October 13, 2015.
5. The Executive Director recognizes that the Respondent returned to compliance with applicable lead and copper monitoring requirements on October 21, 2015.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the acute MCL for coliform bacteria, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect triennial lead and copper samples at the required ten sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2)(C) and (i)(1).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Five Hundred Eighty-Eight Dollars (\$588) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Five Hundred Eighty-Eight Dollar (\$588) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Five Hundred Eighty-Eight Dollars (\$588) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Lueders, Docket No. 2015-1591-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting; and
 - b. Within 225 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date


For the Executive Director

4/8/16
Date


I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Lueders. I am authorized to agree to the attached Agreed Order on behalf of the City of Lueders, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Lueders waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

Dec. 15, 2015
Date

Benson Davis
Name (Printed or typed)
Authorized Representative of
City of Lueders

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.